

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

MIGUEL ADRIAN ADAMS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-20-1185-D
	)	
MICHAL ECCELS, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

This matter comes before the Court for review of the Report and Recommendation [Doc. No. 6] issued pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Magistrate Judge Gary M. Purcell recommends the denial of Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* based on a finding that "Plaintiff has sufficient financial resources to pay the filing fee as his institutional account has a balance of \$1,213.16." *See* R&R at 1.

Plaintiff, who appears *pro se*, has submitted a timely Objection [Doc. No. 7] and a separate Response [Doc. No. 8] that raise the same issues. Plaintiff asserts that only \$22.20 of his institutional account balance is available to him because \$1,190.96 is held in a mandatory savings account that he cannot access until he is released from custody of the Oklahoma Department of Corrections (DOC). Plaintiff contends he has insufficient funds to pay the filing fee for this action and he is entitled to proceed under 28 U.S.C. § 1915.

Plaintiff is incorrect in his view that the funds held by DOC in his savings account cannot be used to pay the filing fee for this case. A provision of the Oklahoma Statutes regarding mandatory savings accounts expressly authorizes an inmate to utilize the funds

maintained by DOC in this account to pay court costs and filing fees for a federal civil action. *See* Okla. Stat. tit. 57, § 549(A)(5) (“Funds from this account may be used by the inmate for fees or costs in filing a civil or criminal action as defined in Section 151 *et seq.* of Title 28 of the Oklahoma Statutes or for federal action as defined in Section 1911 *et seq.* of Title 28 of the United States Code . . .”).

Therefore, upon *de novo* review of the issues presented, the Court finds that Plaintiff’s Objection lacks merit. Plaintiff has sufficient financial resources to pay the filing fee for this action, and thus, he is not eligible to proceed without prepayment of fees under § 1915(a).

**IT IS THEREFORE ORDERED** that the Report and Recommendation [Doc. No. 6] is ADOPTED as set forth herein. Plaintiff’s Motion for Leave to Proceed *In Forma Pauperis* [Doc. No. 2] is **DENIED**.

**IT IS FURTHER ORDERED** that Plaintiff is directed to pay the \$400.00 filing fee for this action within 30 days from the date of this Order. Upon a proper request submitted according to applicable institutional rules, Plaintiff is authorized to use funds from his inmate mandatory savings account for payment of the filing fee.

**IT IS SO ORDERED** this 8<sup>th</sup> day of December, 2020.



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TIMOTHY D. DeGIUSTI  
Chief United States District Judge